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WESTERN DISTRICT OF OHIO

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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF OHIO
14 WESTERN DIVISION

15 KAREN A. ARNETT, et al.,

16 Plaintiffs,

17 v.

18 WILLARD INDUSTRIES, INC.,

19 Defendant.

Case No. C-1-02-87

(Judge S. Arthur Spiegel)
(Magistrate Judge Hogan)

20 **STATEMENT OF INTEREST OF THE UNITED STATES**
21 **AND COMMENTS ON PROPOSED CONSENT DECREE**

22 On December 8, 2003, the Attorney General of the United States received a
23 copy of the proposed consent judgment in the above-referenced case for review
24 pursuant to section 304(c)(3) of the Clean Air Act, 42 U.S.C. § 7604(c)(3). This
25 provision provides, in relevant part:

26 No consent judgment shall be entered in an action
27 brought under this section in which the United
28 States is not a party prior to 45 days following the
receipt of a copy of the proposed consent
judgement by the Attorney General and the
Administrator during which time the Government
may submit its comments on the proposed consent
judgment to the court and parties or may intervene
as a matter of right.

1 Pursuant to this statutory authority, the United States has reviewed the
2 proposed consent decree ("proposed CD"). This decree provides for injunctive
3 relief in the form of installation of an emission control system and monitoring
4 devices, confirmatory emissions testing to ensure that the emission control system
5 is controlling at least 40% of total emissions from the lost foam process operating
6 at maximum capacity, control of fugitive emissions from the lost foam process,
7 compliance with continuing operating, monitoring and reporting requirements, and
8 payment of attorneys' fees in the amount of \$70,000.

9 The United States notes that paragraph 11 of the proposed CD could be
10 misread to suggest that the United States is bound by the terms of the proposed
11 CD. The United States reiterates for the record that it is not bound by any
12 provisions of the proposed CD. 42 U.S.C. § 7604(c)(2) ("A judgment in an action
13 under this section to which the United States is not a party shall not . . . have any
14 binding effect upon the United States.").

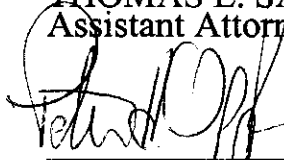
15 The United States recommends that paragraph 5(e) of the settlement
16 agreement attached to the proposed CD (or other appropriate provision of the
17 proposed CD) be amended to obligate Defendant in good faith to take all
18 appropriate steps necessary to obtain permits required under the Clean Air Act and
19 to attain compliance with the Clean Air Act.

20 The United States recommends that paragraph 21 of the proposed CD be
21 amended to require notice to the United States in the event that Plaintiffs, as
22 provided in paragraph 21, find it "agreeable" for the Control System, when
23 Defendant's furnace is in full operation, to control less than 40% of total
24 emissions from the lost foam process operating at maximum capacity.

25 The United States recommends that paragraphs 26 and 27 of the proposed
26 CD be amended to specify that all quarterly reports provided to the Court,
27 Plaintiffs' counsel and Plaintiffs' Consultant also be provided to the United States.
28

Respectfully submitted,

THOMAS L. SANSONETTI
Assistant Attorney General



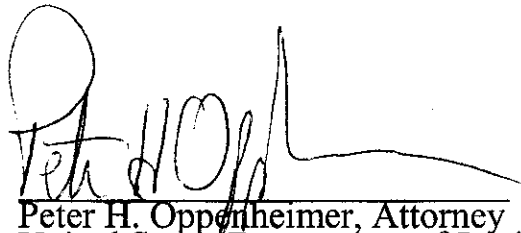
PETER H. OPPENHEIMER, Attorney
United States Department of Justice
Environment & Natural Resources Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the STATEMENT OF INTEREST OF THE UNITED STATES AND COMMENTS ON THE PROPOSED CONSENT JUDGMENT was sent this 15th day of January 2004, by U.S. Mail, first class postage prepaid, to:

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